THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.8938 of 2007

Date: 27.04.2007

Between:

Simha Rmamma.

....Petitioner

And

The Principal Secretary, Irrigation Department (CAD), Government of A.P., Secretariat, Hyderabad and others.

.Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.8938 of 2007

O R D E R:

An extent of Ac.59.28 cents of land in various Survey Numbers of Pendurthi Village, Rapur Mandal, Nellore District, was acquired for the purpose of Kandaleru Reservoir. Notifications under Sections 4(1) and 6 of the Land Acquisition Act, 1894 (for short 'the Act') were issued and an award was also passed. The petitioner states that she is entitled to one-fifth share in the acquired land as well as the other properties held by late Bandi Penchala Reddy and Bandi Gopal Reddy. On an earlier occasion, she approached this Court by filing W.P.No.7859 of 1991. During the pendency of the Writ Petition, one-fifth of the compensation was directed to be withheld by the respondents. This Writ Petition is filed for a Writ of Mandamus, declaring the action of the respondents in not paying the compensation amount along with interest and other statutory benefits to the petitioner as illegal and arbitrary. Consequential directions for payment thereof are sought.

Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition.

The petitioner filed O.S.No.92 of 1990 in the Court of Principal Sub-ordinate Judge, Gudur, for partition and separate possession of the suit schedule property therein. Through the

judgment, dated 15.05.1997, the trial Court passed a preliminary decree, upholding the claim of the petitioner. The acquired land is also said to be part of the suit schedule property. The Judgment of the trial Court is said to have been affirmed by this Court in A.S.No.930 of 1997.

Even assuming that any part of compensation payable for the acquired lands is with the respondents, the petitioner cannot claim the same, straight away, unless necessary orders are passed by the competent Courts. Admittedly, no reference was made under Section 30 of the Act, in relation to the acquired lands. In case, the right of the petitioner, for a share in the acquired lands, was upheld by the trial Court in the preliminary decree, she has to work out her remedies in the final decree proceedings.

Hence, the Writ petition is disposed of, leaving it open to the petitioner to work out her remedies in the final decree proceedings in O.S.No.92 of 1990, to claim her one-fifth share in the lands acquired by the respondents. As and when an application is made, in this regard, the trial Court shall examine the same, on its own merits, after giving an opportunity to the affected parties and take necessary steps. There shall be no order as to costs.

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27.04.2007

JSU